

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EVA S. ENGELHART, CHAPTER 7
TRUSTEE FOR THE ESTATE OF
SUN BELT COMMODITIES, INC.,

Plaintiff,

v.

ZURICH AMERICAN INSURANCE CO.,

Defendant.

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CIVIL ACTION NO. 4:16-cv-2691

**DEFENDANT ZURICH AMERICAN INSURANCE COMPANY'S
NOTICE OF REMOVAL**

Defendant Zurich American Insurance Company ("Defendant") files this Notice of Removal under 28 U.S.C. §§ 1332, 1441, and 1446 and states:

**I.
INTRODUCTION**

1. Plaintiff Eva S. Engelhart, Chapter 7 Trustee for the Estate of Sun Belt Commodities, Inc. ("Plaintiff") commenced this lawsuit on July 26, 2016, by filing Plaintiff's Original Petition ("Petition") in the 189th Judicial District Court of Harris County, Texas.

2. Defendant was served with Plaintiff's Petition on August 3, 2016. Accordingly, Defendant files this Notice within the 30-day time period required by 28 U.S.C. § 1446(b).

**II.
BASIS FOR REMOVAL**

3. Venue is proper in this District under 28 U.S.C. § 1441(a) because the state court where the action is pending is located in this District.

4. Removal is proper under 28 U.S.C. § 1332(a) if there is complete diversity between the parties and the amount in controversy exceeds \$75,000, exclusive of interest, costs

and attorneys' fees. These two conditions are satisfied in this matter.

A. Removal is Proper Because Complete Diversity of Citizenship Exists Between Plaintiff and Defendant.

5. Plaintiff is an individual residing in Harris County, Texas. Plaintiff is a Texas resident for purposes of diversity of citizenship.¹

6. Defendant is a foreign insurance company domiciled in New York, with its principal place of business in Illinois. Defendant is not a Texas resident for purposes of diversity of citizenship.

7. Hence, there is now, and was at the time this action was filed, complete diversity of citizenship between Plaintiff and Defendant.

B. Removal is Proper Because Plaintiff's Claimed Damages Exceed This Court's Jurisdictional Threshold of \$75,000.

8. If it is facially apparent that Plaintiff's claims in this suit exceed \$75,000, exclusive of interest, costs, and attorney's fees, Defendant's burden to establish that the amount in controversy exceeds this Court's jurisdictional threshold is satisfied.²

9. Here, Plaintiff's Petition states that Plaintiff is seeking over \$1,000,000.00 in damages.³ It is thus facially apparent that Plaintiff's claims exceed this Court's jurisdictional threshold of \$75,000.

¹ Defendant also notes that Sun Belt Commodities, Inc. is a Texas corporation with its principal place of business in Houston, Texas. Thus, both Plaintiff (as the Trustee) and Sun Belt Commodities are Texas residents for purposes of diversity citizenship.

² *Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1999).

³ *See* Plaintiff's Original Petition at p.8, §30.

III.
CONCLUSION

10. Because there is completely diversity between the parties and the amount in controversy exceeds \$75,000 (excluding interest, costs, and attorneys' fees), removal is proper under 28 U.S.C. § 1332(a).

11. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the clerk of the District Clerk of Harris County, Texas promptly after the filing of this Notice.

12. For the foregoing reasons, Defendant hereby provides notice that this action is duly removed.

WHEREFORE, Defendant Zurich American Insurance Company requests that this action be removed from the 189th District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division, and that this Court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

By: /s/ Brad E. Brewer
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**ATTORNEYS FOR DEFENDANT ZURICH
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served this 2nd day of September 2016, in accordance with the Federal Rules of Civil Procedure, by electronic filing as follows:

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